



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

SJN  
Docket No: 06582-08  
8 May 2009

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 May 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

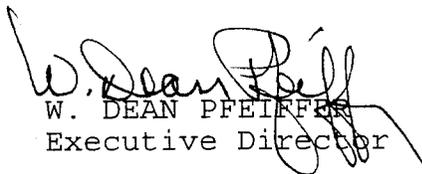
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 18 October 2006 after 19 years of honorable service. During the period from October 2005 to March 2007, you wrongfully received Overseas Housing Allowance (OHA). On 28 February 2008, you signed a Memorandum of Understanding (MOU), stating that you agreed to accept a summary court-martial (SCM) and that you would plead guilty to one specification of wrongful appropriation of OHA in the amount of about \$16,388.00. The record shows that before entering into the MOU, you were advised by counsel throughout the agreement negotiations and were counseled regarding the meaning and effect of the terms of it. Subsequently, on 12 March 2008, you were convicted by SCM of wrongful appropriation. You were sentenced to a reduction in paygrade and a forfeiture of pay. You remained on active duty until 30 September 2008 when you were honorably transferred to the Navy Fleet Reserve.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, Good Conduct Medals and other numerous awards. Nevertheless, the Board found that these factors were not sufficient to warrant mitigation of your punishment. The Board is expressly forbidden from reviewing the findings rendered by a court-martial and must restrict its review to the appropriateness of the sentence. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director